IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3526 OF 2006

Shabuddin Babulal Korabu Applicant
versus
State of Maharashtra Respondent

Shri A.P.Mundargi, Sr.Counsel with M.N.Patil for applicant.

Mrs.M.H.Mhatre, APP for respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 16th October 2006

PC :

1. Heard Shri Mundargi, learned Senior Counsel for the applicant.

2. He informs that all attempts of settling the matter with the complainant-prosecutrix have failed. In such circumstances, he presses this application on merits.

3. The applicant apprehends his arrest in connection with Cr No.87 of 2006 registered at Kurduwadi Police Station, District Solapur.

4. The applicant is a Primary School Teacher who is working with the Primary School of Gram Panchayat of Village Kavhe.

5. It appears that the applicant was friendly with the complainant and at the relevant time she had an on-going dispute with her husband. It is alleged that the applicant told the complainant that even he is unhappy in his matrimonial life and they can be together as husband and wife. It is in such circumstances that she alleges that the applicant and the complainant had sexual relations for about four years. The details of the places where they resided together along with the fact that the complainant was told to abort the child, are set out in the FIR..

6. The complainant is aged 35 years. Admittedly, her dispute with her husband ended in the marriage being dissolved and she being awarded maintenance, the allegation further is that the maintenance amount is also snatched by the applicant.

7. From a perusal of the FIR and the statement of the complainant-prosecutrix, there appears to be substance in Shri Mundargi’s contentions that

the complaint is lodged because of the applicant's first wife returning to him. Secondly, on account of local politics the complainant has involved the applicant. There appears to be some assurances but that by itself is no ground to conclude that the applicant is guilty of the offences alleged.

8. That apart, the statements of all concerned have been recorded. The copies of the applications for maintenance etc. are available from the Court record. Even the medical reports and other documents would become available from the concerned authorities. Prima facie, assuming that the relations were continuing, it is difficult to conclude that the applicant is guilty of offences alleged. That apart, a case for custodial interrogation is not made out. The applicant is willing to attend the concerned Police Station as and when summoned. In such circumstances, following order would subserve the ends of justice.

9. ORDER :-

(i) In the event of the arrest of the applicant in connection with C.R.No.87 of 2006 registered with Kurduwadi Police Station, District Solapur, the applicant shall be enlarged on bail subject

to furnishing P.R.Bond in the sum of Rs.10,000/- (Rs.Ten thousand only) with one or two local sureties in the like sum;

(ii) The bail is granted subject to condition that the applicant will attend Kurduwadi Police Station, District Solapur as and when summoned;

(iii) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/Investigating Agency. The applicant shall not tamper with the prosecution evidence;

(iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial;

(v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate Court for appropriate relief;

(vi) Application is disposed of in the above terms.

(S.C.DHARMADHIKARI, J.)